No. 01-1861

Supreme Court, U.S.
FILED
JUL 24 2002
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

SVERIGES ANGFARTYGS ASSURANS FORENING d/b/a THE SWEDISH CLUB,

Petitioner,

v.

GLOVEGOLD SHIPPING LIMITED,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

BRIEF IN OPPOSITION

COURTNEY WILDER STANTON*
3536 University Blvd. N.
Suite 159
Jacksonville, FL 32277
(904) 745-4452

JOHN STRATAKIS
POLES TUBLIN PATESTIDES
& STRATAKIS
46 Trinity Place
New York, NY 10006

STAVROS C. HAIDEMENOS
WARWICK HOUSE CHAMBERS
8 Warwick Court
Gray's Inn
London WC1R 5DJ, England

Counsel for Respondent

* *Counsel of Record*

July 24, 2002

175151

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

CORPORATE DISCLOSURE STATEMENT

The Respondent and appellant below: Glovegold Shipping Limited, has no parent corporation. No publicly held corporation or public limited company or similar public entity owns 10% or more of its stock.

TABLE OF CONTENTS

	Page
CORPORATE DISCLOSURE STATEMENT	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iii
STATEMENT OF THE CASE	1
REASONS FOR DENYING THE WRIT	1
THE DECISION BELOW DOES NOT CONFLICT WITH ANY DECISION OF THIS COURT, ALL OF WHICH THE DECISION BELOW IDENTIFIES AND PROPERLY APPLIES	1
CONCLUSION	7

TABLE OF CITED AUTHORITIES

Page

FEDERAL CASES

Burger King Corp. v. Rudzewicz,
471 U.S. 462 (1985) 2, 5

Helicopteros Nationales de Colombia S.A. v. Hall,
466 U.S. 408 (1984) 1, 2, 5

International Shoe Co. v. State of Washington,
326 U.S. 310 (1945) 1

McGee v. International Life Ins. Co.,
355 U.S. 220 (1957) 1

World-Wide Volkswagen Corp. v. Woodson,
444 U.S. 286 (1980) 2, 3, 5

STATE CASE

Gleneagle Ship Management v. Leondakos,
602 So. 2d 1282 (Fla. 1992) 2

STATEMENT OF THE CASE

The Respondent incorporates by reference the statement of facts and proceedings in the opinion below. (App. 2a-6a).

REASONS FOR DENYING THE WRIT

THE DECISION BELOW DOES NOT CONFLICT WITH ANY DECISION OF THIS COURT, ALL OF WHICH THE DECISION BELOW IDENTIFIES AND PROPERLY APPLIES.

Nothing here calls for an exercise of certiorari jurisdiction. No conflict has been shown to exist. None emerges from the unfocused argument of the Petitioner, which construed in the most favorable light possible is nothing more than a disagreement with the manner in which the district court of appeal applied the applicable decisions of this Court to the specific facts of this case, hardly reason motivating certiorari jurisdiction.

Beyond this, it is clear from a reading of the decision below that it fully recognizes the pertinent decisions of this Court and properly applies them in determining that the purposeful contacts of the Petitioner with Florida were such that the maintenance there of this suit would not offend traditional notions of fair play and substantial justice. *McGee v. International Life Ins. Co.*, 355 U.S. 220, 222 (1957); *International Shoe Co. v. State of Washington*, 326 U.S. 310, 326 (1945).

No conflict has been shown to exist with *Helicopteros Nationales de Colombia S.A. v. Hall*, 466 U.S. 408 (1984). In *Helicopteros* this Court recognized authoritatively the

distinction between the exercise of general jurisdiction over a nonresident defendant, that involving "a cause of action not arising out of or related to the [nonresident's] activities within this [forum] state," 466 U.S. at 409, 411 n.9, and special jurisdiction, that involving a cause which does, 466 U.S. at 410 n.8. The decision below expressly notes this distinction, which it characterizes as "important." (App. 10a).

That importance, as the decision below notes, lies in the "much higher standard" required for general jurisdiction, such that "the court must find that the defendant's contacts with the forum represent continuous and systematic general business contact," citing *Helicopteros*, 466 U.S. at 416. (App. 10a). Since, however, this cause of action arises out of, and/or relates to, the Petitioner's contacts with Florida, jurisdiction here does not require "a finding of continuous and systematic general business contacts."[1] (App. 10a). It is difficult to conceive a more knowledgeable, clearly stated application to the case at hand of this Court's decision in *Helicopteros*. No conflict here.

Nor is there any conflict with *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980) and/or *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985). By their framing

---

1. Contrary to the Petitioner's statement the case as pleaded alleged both general and specific jurisdiction. Among the undisputed facts in this case were those of contacts which were on their face systematic and continuous. (App. 2a). In accordance with Florida law, *Gleneagle Ship Management v. Leondakos*, 602 So. 2d 1282 (Fla. 1992), discovery was served with the complaint; however, the trial court, whose judgment the decision below reverses, refused to order the Petitioner to respond to the discovery. This was assigned as error; however, owing to the course the decision below took, the point became unnecessary, and was never reached for decision.

of the issue and in their misstatement of this Court's holding in *World-Wide Volkswagen*, the Petitioner undertakes to establish a strawman of personal jurisdiction predicated solely upon a nonresident insurer's naked ability to foresee a possible loss within the forum. But that is not the decision for which certiorari review is sought. Rather, the decision below turned upon purposeful activities of the Petitioner directed toward the forum by its:

- Undertaking to insure a risk based in, and operated from, the forum state

- Establishing in the forum state an organization with which to deliver insurance services

- Attending in the forum state as part of its insuring undertaking a casualty sustained by the subject matter of the insurance they provided.

The ANTHENOR EXPRESS, the subject matter of the insurance, was a Florida-based risk and had been for a substantial period prior to the mid-1996 attachment of the insurance in question.

> . . . [T]he [ANTHENOR EXPRESS] plied a regular and continuous trade in and out of Florida ports, including Jacksonville, Miami, Port Everglades, and Tampa.Her historic trading pattern can be summarized as follows:
>
> Aug. 89-Dec. 90: Miami — Cayman Islands
>
> Jan. 91-Feb. 92: Tampa — Guatemala

Feb. 92-Jan 94: Miami — Bahamas

Jan. 94-Feb. 96: Jacksonville or Port Everglades — Bahamas

During this time, various shipping organizations operating out of offices in Florida engaged the ANTHENOR EXPRESS on time-charters. During 1991 and 1992, the vessel was chartered to Tampa Bay Shipping of Florida. From 1993 through 1996, the vessel was chartered to Bahmar Agencies and Sea Express, both managed from Miami. Danoff Inc., a Miami-based ship brokerage firm, brokered these charters.

Throughout this time, the vessel was regularly maintained, supplied and crewed in Florida, with repairs and periodic drydockings carried out at commercial facilities located either in Jacksonville, Miami, or Port Everglades. The offices of Bureau Veritas at Miami and Port Everglades carried out all classification surveys. Florida-based ship chandlers always provisioned the vessel in Florida ports (Miami, Jacksonville, Port Everglades). New and relieving crew members always boarded the vessel in Florida ports, and their contracts of employment were always signed upon their reporting on board.

* * *

On July 31, 1995, [the Petitioner] issued [the Respondent] a policy of hull and machinery (H & M) insurance for the period from July 31,

> 1995, to December 31, 1995. . . . The vessel was berthed in Port Everglades, Florida on July 31, 1995, when the policy was issued. . . . The ANTHENOR EXPRESS was berthed in the Port of Miami on December 31, 1995, when the addendum [which extended the coverage to December 31, 1996] was executed.
>
> * * *
>
> Prior to the February 1996 casualty, the only litigation involving the ANTHENOR EXPRESS during this eight-year period was an action brought in the United Sates District Court, Tampa, Florida, on or about 1992.

(App.3a-4a). It was this subject matter of insurance that the Petitioner purposefully undertook to insure.

The Petitioner's involvement with Florida was such that they had established within Florida an organization with which to provide the insurance services they promised their members. (App. 2a). And when the ANTHENOR EXPRESS sustained a casualty while sailing in Florida waters en route to Jacksonville and was towed to a shipyard in that city, the Petitioner undertook to attend on site there and to investigate. (App. 4a-5a). It is clear that the decision below turns on contacts that far exceed in quality and quantity a foreseeable risk of loss in the forum. "The foreseeability that is critical to due process analysis . . . is that the defendant's conduct and connection with the forum state are such that he should reasonably anticipate being hailed into court there." *Burger King*, 471 U.S. at 479, quoting from *World-Wide*

Volkswagon, 444 U.S. at 295. Such was the case. No conflict here either. **Nor does the question presented for review arise from, or is it contained within, the decision below.**

Finally the Petitioner contends certiorari jurisdiction should be exercised to address whether the court below erred by including in its due-process analysis "factors [that] relate only to claims of general personal jurisdiction because they have no connexity with the lawsuit." (Petition 7). This Court is referred to no authority at any level which holds that a court in performing a due-process analysis to determine the existence of forum jurisdiction from which the particular cause of action arises. *Helicopteros* does not so hold. Nor is such a concept fairly derivable from this Court's decision there, for while jurisdiction may be either specific or general, contacts are just contacts, plainly and simply. They do not divide themselves into general contacts and specific contacts for the purpose of the due-process analysis. No conflict here.

CONCLUSION

No conflict exists between any decision of this Court and the decision below. To the contrary the decision below represents a knowledgeable application of those decisions to the facts of this case. Consequently, the petition for a writ of certiorari should be denied. In the alternative, the writ should be granted and the decision below summarily affirmed.

Respectfully submitted,

COURTNEY WILDER STANTON*
3536 University Blvd. N.
Suite 159
Jacksonville, FL 32277
(904) 745-4452

JOHN STRATAKIS
POLES TUBLIN PATESTIDES
& STRATAKIS
46 Trinity Place
New York, NY 10006

STAVROS C. HAIDEMENOS
WARWICK HOUSE CHAMBERS
8 Warwick Court
Gray's Inn
London WC1R 5DJ, England

Counsel for Respondent

July 24, 2002

* *Counsel of Record*